

REMARKS

In the Office Action mailed on October 9, 2009, the examiner: (1) acknowledged the Applicant's submission of a priority claim; (2) acknowledged the Applicant's response to the previously issued Election/Restriction requirement; (3) acknowledged the Applicant's submission of an Information Disclosure Statement; (4) rejected pending Claims 1-3, 7 and 8 on grounds of non-statutory obvious-type double patenting in view of co-pending Application No. 10/536618; and (5) objected to the use of certain wording in the pending claims. By way of this amendment and remarks, the Applicant believes that it has addressed all issues raised by the examiner and respectfully requests all pending rejections be withdrawn.

1. Double Patenting Objection.

Attached hereto is an executed Terminal Disclaimer, disclaiming any patent term extending beyond the expiration date of the full statutory term granted on co-pending Application No. 10/536618. In view of the submission of the Terminal Disclaimer, the Applicant respectfully requests that the double-patenting objection be withdrawn.

2. Claim Amendments.

By way of the claim amendments made in this paper, the Applicant has deleted the terms objected to by the examiner from the pending claims. The Applicant has also further amended Claim 14 to include the limitations of allowable Claim 1 and submits that these amendments do not add new matter to this claim or the application.

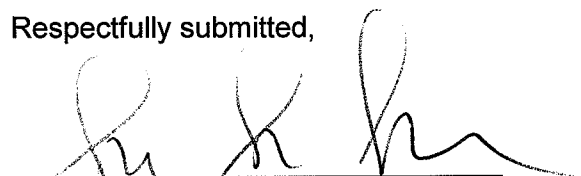
3. Rejoinder of Withdrawn Claim 14.

The examiner had previously identified Claim 14 as drawn to a "method of use" of the claimed compound, in effect requiring restriction between a product and process claim. The Applicant had elected claims directed to the "product", namely the compound shown in Claim 1-

3, 7 and 8. Upon entry of the terminal disclaimer attached hereto and the claim amendments made herein, the Applicant believes pending Claims 1-3, 7 and 8 are allowable as all issues raised by the patent examiner have now been addressed. Where "product" Claim 1 is believed to be allowable and withdrawn "process" Claim 14, as proposed to be amended herein, requires all limitations of the allowable product claim, the Applicant respectfully requests rejoinder of Claim 14 to this application for further examination.

The examiner is invited to contact the undersigned with any inquiries regarding this submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sean S. Swidler', is written over a horizontal line.

Sean S. Swidler (Reg. No. 49033)
Attorney for Applicants

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IpHorgan Ltd.
1130 Lake Cook Road,
Suite 240
Buffalo Grove, IL 60089

Tel: 847-808-5500
Fax: 847-808-7238
Email: mail@iphorgan.net